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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUL 31 2003

Federal Communications Commission
Office of the Secretary

In the Matter of)	EB Docket No. 03-96
)	
)	File No. EB-02-TC-119
)	
NOS Communications, Inc.,)	Acct. No. 200332170003
Affinity Network Incorporated and)	
NOSVA Limited Partnership)	FRN No. 0004942538

**JOINT OBJECTIONS AND RESPONSES TO ENFORCEMENT BUREAU'S
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

NOS Communications, Inc. ("NOS"), Affinity Network, Incorporated ("Affinity," "ANT"), NOSVA Limited Partnership ("NOSVA") (collectively and otherwise referred to as the "Companies"), by counsel and pursuant to the Rules and Regulations of the Federal Communications Commission, hereby submit these Joint Objections and Responses to Enforcement Bureau's Second Request for Production of Documents.

GENERAL OBJECTIONS

The Companies reserve the right to amend or supplement these responses as discovery in the case progresses, as new facts develop and as new information is obtained. The following responses are given without prejudice to the Companies' right to produce or rely on additional evidence at trial or in connection with any pretrial proceedings.

The Companies make the following General Objections and incorporate each of them into every specific response made below. The assertion of the same, similar or additional objections in any specific response does not waive the Companies' objections as set forth below.

The Companies object to each of the individual Requests for Production to the extent that they call for information protected by the attorney-client privilege, the work product doctrine, or

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any other applicable privilege or immunity. Such privileged information will not be produced and any inadvertent disclosure or production thereof will not be deemed a waiver of any privilege or protection.

The Companies object to each of the individual Requests for Production to the extent that they purport to require disclosure of any information protected by the right to privacy under the constitutions of the United States and/or any state in which the Companies are located.

The Companies object to each of the individual Requests for Production to the extent that they purport to impose the burden of furnishing information that is not available to the Companies or that is equally or more readily available to the Enforcement Bureau.

The Companies object to each of the instructions, definitions and individual Requests for Production to the extent that they purport to impose any obligation on the Companies greater than or different from that imposed by the Rules of the Federal Communications Commission.

The Companies object to each of the individual Requests for Production to the extent that they are vague, ambiguous, overly broad and/or unduly burdensome.

The Companies object to each of the individual Requests for Production to the extent that they seek documents that are irrelevant to the present dispute and which are furthermore not reasonably calculated to lead to the discovery of admissible evidence.

The Companies object to each of the individual Requests for Production to the extent that they purport to require the Companies to disclose any information that is commercially sensitive, confidential, proprietary or reflects trade secrets. Any inadvertent disclosure or production thereof will not be deemed a waiver of any privilege or protection.

The Companies object to the Definition "Winback" on the grounds of burden, scope, relevance and breadth. As defined, the Bureau seeks information regarding "winback" programs

not identified in its Order to Show Cause and Notice of Opportunity for Hearing (“Show Cause Order”).¹ As with most telecommunications companies, the Companies engage in a variety of efforts to “winback” customers (1) that have recently left its service, (2) that are in the process of leaving its service, but still have lines left behind, or (3) for which it has received an indication that the customer might soon completely or partially leave its service. The Show Cause Order – including each attached affidavit and script – relates solely to the second type of “winback” effort of the Companies – an attempt to win back customers who have partially left its service (referred to as “Winback I” within the Companies).² “Winback I” efforts were typically triggered by the Companies noticing that some lines with it had no recent traffic, while others still had traffic, or by receiving a code from the local exchange carrier that the customer has changed service providers, while active lines remained with the Companies. This was not an infrequent event when a customer sought to change carriers. The other “winback” efforts of the Companies are neither discussed nor alluded to in the Show Cause Order and, therefore, could not be reasonably calculated to lead to the discovery of admissible evidence.

The Companies, therefore, object to the Definition of “Winback” to the extent it seeks information regarding the “winback” program not identified in its Show Cause Order. The Show

¹ In re NOS Communications, Inc., Affinity Network Incorporated and NOSVA Limited Partnership, Order to Show Cause and Notice of Opportunity for Hearing, EB Docket No. 03-09 (April 7, 2003).

² As the Show Cause Order directs, the Hearing is limited in scope to whether the Company engaged in “improper inducements [that] apparently included the Companies contacting their former customers and describing ‘problems’ that the customers’ chosen carriers were allegedly having in completing the customers’ requests to establish new service.” Id. at para. 2. Or, as the Commission specifically alleged, “In reality, the consumers had already been switched to their new preferred carriers and the Companies’ marketing campaign was an apparently misleading scheme to trick consumers into returning to the Companies’ service.” Id.; see also para. 16. In other words, the Show Cause Order is limited to a practice referred to within the Company as a “Winback I,” “partial line winback” or “partial line save” (herein referred to as “Winback I”) – an attempt to win back customers that have left the Companies’ service, but that have left lines behind with the Companies.

Cause Order does not reflect any issue with any other “winback” initiative except for the initiative related to attempting to “winback” customers that have partially left the Companies’ service. To include all other “winback” initiatives would greatly broaden the scope identified within the Show Cause Order. “Winback I” was limited to certain of sales agents, reached far fewer customers and had scripts separate and distinct from other “winback” scripts. The Companies’ response, therefore, will be limited to the scope, relevance and breadth as identified in the Show Cause Order.

In addition to the General Objections, the Companies reserve all rights to supplement or modify any of its responses as the discovery process continues.

Subject to the above objections, the Companies respond as follows.

RESPONSES AND SPECIFIC OBJECTIONS

Request No. 1:

1. Provide copies of all official “Web tariffs” of NOS, Affinity, and/or NOSVA in effect during the period from December 2001 to the present.

Objections and Response to Request No. 1:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, responsive material is produced.

Request No. 2:

2. Provide copies of all documents in which NOS, Affinity, and/or NOSVA disclosed to potential customers prior to their selection of NOS, Affinity, and/or NOSVA as their interLATA service provider, the content of section 4.19 of NOS, Affinity and/or NOSVA’s federal “Web tariff” and/or NOS, Affinity, and/or NOSVA’s policy to terminate partialline accounts, including but not limited to all such documents provided to Advanced Tex, Transportation, Appeal Insurance Company, Arizconsin

Group, d/b/a Crandon Nursing Home, Bank of Sierra, Becker Wagonmaster, Inc., Century 21, Associates, Chicgo Title Insurance Co., EarthAction Alerts Network, Genisys Financial d/b/a Magellan Mortgage, Nelson Engineering, The Bank of Yellville, Tri-V Services or Tideland Membership Corp.

Objections and Response to Request No. 2:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, responsive material is produced.

RESERVATION OF RIGHTS


The Companies' investigation of the facts and circumstances surrounding the matters identified by the Enforcement Bureau is ongoing. These Objections and Responses are based on currently available information. The Companies reserve the right to supplement and/or amend

these Objections and Responses at a later time if additional information is discovered during the course of future investigation.

Respectfully submitted,

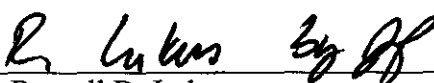
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July 29, 2003

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CERTIFICATE OF SERVICE

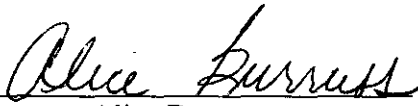
Alice Burruss, certifies that she has, on this 29th day of July, 2003, except where noted, sent by first class United States mail copies of the foregoing a copy of the foregoing "Joint Objections and Responses to Enforcement Bureau's Second Request for Production of Documents" to:

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